

REMARKS/ARGUMENTS

Reconsideration and withdrawal of the rejections of the application are respectfully requested in view of the amendments and remarks herewith, which place the application into condition for allowance. The present amendment is being made to facilitate prosecution of the application.

I. STATUS OF THE CLAIMS AND FORMAL MATTERS

Claims 1-6, 9-23, 25-44, and 46-52 are pending. Claims 1, 18, 32, 51, and 52 are independent and are hereby amended. Support for the amendment is found throughout the specification as originally filed.

No new matter has been introduced. It is submitted that these claims, as originally presented, were in full compliance with the requirements of 35 U.S.C. §112. Changes to claims are made simply for clarification and to round out the scope of protection to which Applicants are entitled.

II. SUPPORT FOR AMENDMENTS

Amendments to claims 1, 18, 32, 51, and 52:

Publ. App. par. [0021]:

“The environment information stored by the environment information server for an environment includes . . . user count information for the environment (e.g., the current number of users or clients connected to the environment and/or the maximum number of users or clients that are permitted to be connected to the environment), latency information for the environment (e.g., **estimated relative to a sample client . . . for estimating latency relative to the requesting client**) . . .” (emphasis added)

III. REJECTIONS UNDER 35 U.S.C. §§102 AND 103

- A. Claims 1-4, 9-20, and 25-51 were rejected under 35 U.S.C. §103(a) as allegedly unpatentable over U.S. Patent App. Publ. No. 2002/0002074 of White et al. ("White") in view of U.S. Patent No. 7,803,052 to Multerer, et al. ("Mulerer");
- B. Claims 1-6, 9-23, 25-44, and 46-52 were rejected under 35 U.S.C. §103(a) as allegedly unpatentable over U.S. Patent No. 6,152,824 to Rothschild et al. ("Rothschild") in view of Multerer; and
- C. Claims 5, 6, 21-23, and 42-44 were rejected under 35 U.S.C. §103(a) as allegedly unpatentable over U.S. Patent App. Publ. No. 2002/0002074 of White et al. ("White"), Multerer in view of Rothschild.

Applicants respectfully traverse these rejections.

Claim 1 is representative and recites, *inter alia*:

wherein the environment report comprises:

...

latency information for a particular network environment estimated relative to a sample user to estimate latency relative to the requesting user.

As discussed in a prior reply, the invention as claimed in claim 1 is, in simplified terms so as not create an estoppel, directed to an environmental information server that polls a number of other servers hosting networked games. A client seeking on-line gaming can get an environmental report from the information server.

Claim 1 is amended to describe a particular content of the report. The reported information includes, “latency information for a particular network environment estimated relative to a **sample user to estimate latency relative to the requesting user.**”

The Office Action cites Multerer as sending reports on a gaming environment. In particular, the Office Action points to Multerer’s FIG. 12 and the description at col. 11:29-50. However, Multerer fails to disclose reporting the latency period between a requesting client and the gaming server. As is well-known, the latency period is a factor that a client can use when determining which gaming server to join.

While Multerer does not discuss latency periods at the cited col. 11:29-50, Multerer does discuss network latencies at col. 11:51 to col. 12:14. However, the gaming servers of Multerer are categorized in zones and the latencies are only to determine the distance between pairs of zones.

In contrast to the present invention, there is no suggestion in Multerer that the latency distance is between the user and the server, no less reported to the user. Moreover, there certainly is no disclosure in Multerer that a **sample user** is used to determine the latency between the **requesting user and a particular gaming server.**

Neither White nor Rothschild cure the deficiency of Multerer.

As such, claim 1 of the present invention is believed patentable over Multerer, White , and Rothschild because those references taken alone or in combination do not disclose, teach, or render predictable each and every feature recited in the claim. In particular, there is (1) no

suggestion that the latency distance is reported and that latency is the distance between the user and the server, and moreover (2) there is no suggestion that a sample user is used to determine the latency between the requesting user and a particular gaming server.

For reasons similar to or somewhat similar to those described above with regard to independent claim 1, independent claims 18, 32, and 51-52 are also patentable.

IV. DEPENDENT CLAIMS

The other claims are dependent from one of the independent claims discussed above, and are therefore believed patentable for at least the same reasons. Since each dependent claim is also deemed to define an additional aspect of the invention, however, the individual reconsideration of the patentability of each on its own merits is respectfully requested.

Similarly, because Applicants maintain that all claims are allowable for at least the reasons presented hereinabove, in the interests of brevity, this response does not comment on each and every comment made by the Examiner in the Office Action. This should not be taken as acquiescence of the substance of those comments, and Applicants reserve the right to address such comments.

CONCLUSION

In the event the Examiner disagrees with any of statements appearing above with respect to the disclosures in the cited reference, it is respectfully requested that the Examiner specifically indicate those portions of the reference providing the basis for a contrary view.

Please charge any additional fees that may be needed, and credit any overpayment, to our Deposit Account No. 50-0320.

In view of the foregoing amendments and remarks, all of the claims in this application are patentable and Applicants respectfully request early passage to issue of the present application.

Respectfully submitted,

FROMMER LAWRENCE & HAUG LLP
Attorneys for Applicants

By: 

Paul A. Levy
Reg. No. 45,748
(212) 588-0800